

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

CITIZEN COMPLAINTS SUBCOMMITTEE MEETING MINUTES

August 6, 2018 – 10:00 a.m. – 12:00 p.m.

Subcommittee Members Presents: Sahar Durali, David Robinson, Doug Oden

Subcommittee Members Absent: Tim Silard, Brian Marvel

1. **Call to Order**

The third meeting of the Civilian Complaints Subcommittee was called to order at 10:05 a.m. by Kelsey Geiser from the California Department of Justice (DOJ). The Meeting was held by teleconference with a quorum of members present

2. **Update from Department of Justice**

Ms. Geiser provided an overview of the Board's timeline for the rest of the year as well as a broad review of the proposed subcommittee work for this year's report, including an analysis of the 2017 citizen complaint data.

3. **Overview of Proposed Report Content**

Ms. Geiser provided the subcommittee with an overview of the report outline and highlighted the proposed work of the Stop Data subcommittee. Ms. Geiser commented that the outline distributed was intended for consideration and to encourage discussion of items to be considered for inclusion in the upcoming report. Ms. Geiser stated that one approach to the report would be to include a set of best practice guides in this report that would cover the topics discussed in each subcommittee. These guides would provide an overview of the governing state and federal law on the topic as well as a best of best practice recommendations accumulated from top research on the subject or existing model policies or trainings. These guides would not feature model language or be comprehensive or a complete list of everything that should go into a policy, but rather include elements of policies or trainings that are essential and should be included across all agencies. Ms. Geiser commented that the best practice guide for the civilian complaint subcommittee proposed in the outline covers civilian complaint policies and procedures.

Ms. Geiser commented that the best practice recommendations in this year's report would aim to build on the recommendations put forward in last year's report. Ms. Geiser provided a brief overview of the recommendations this subcommittee made in last year's RIPA report regarding civilian complaint procedures. Ms. Geiser stated that the Board's recommendation in last year's report to alter the data reporting to address the issue of complaints reaching disposition in different years than the year in which they were first reported was accepted and that change has been made to the data collection form.

Ms. Geiser commented that this subcommittee has suggested the creation of a model civilian complaint form in previous subcommittee meetings and may wish to pursue that in this year's report. Ms. Geiser noted that the subcommittee could also choose to combine the

recommended elements of a model civilian complaint form into a more general best practice guide on civilian policies and procedures.

Board Member Comments

- Co-Chair Durali commented that a best practice guide on civilian complaint procedures and policies would be a robust approach to take for this year's approach.
- Co-Chair Robinson and Member Oden agreed on the approach.
- Member Oden commented that the subcommittee should preliminary approach the topic with a wider view with the option to narrow the scope as the drafting process progresses.
- Co-Chair Durali asked if the subcommittee would be making legislative recommendations in the year's report and encouraged the subcommittee members to keep that option in mind when drafting.
- Ms. Geiser responded that the Board has the opportunity to make any recommendations it deems appropriate.
- Co-Chair Robinson commented that the subcommittee may be able to modify some of the recommendations it made in last year's report after analyzing the 2017 citizen complaint and comparing it to the data analysis of the 2016 citizen complaint data included in last year's report.

4. Discussion of Citizen Complaint Data Analysis

Kevin Walker with the DOJ stated that the DOJ received the 2017 data and has begun the analysis process. Mr. Walker stated that the current plan is to mirror many of the analysis methodologies and structure used in the data analysis from last year's report. Mr. Walker noted that the limitations of the data included in last year's report remain for the analysis of this year's data.

Mr. Walker stated that this year's analysis will include a similar breakdown of the data by different disposition categories and can do a breakdown of the data by agency similar to last year's analysis. Mr. Walker commented that since the Board will not be distributing a survey this year, the agency level data table will not include the column indicating the number of calls for service in 2017. If the subcommittee chooses to include an agency-level snapshot of the data, Mr. Walker suggested including data from all of the agencies in Wave 1, Wave 2, and Wave 3, which is just under 20 agencies.

Board Member Comments

- Co-Chair Durali asked which agencies were included in the agency-level snapshot included in last year's report.
- Mr. Walker responded that last year's report included all of the agencies in wave 1 including the California Highway Patrol, Los Angeles County Sheriff's Department, Los Angeles Police Department, Riverside County Sheriff's Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, San Diego Police Department, and San Francisco Police Department. It also included data from from waves 2 and 3 agencies; the Anaheim Police Department, Oakland Police Department, Orange County Sheriff's Department, and San Jose Police Department. Finally, it included a random sampling of 14 agencies from Wave 4, or the State's smallest agencies.

- Co-Chair Durali and Member Oden agreed with including data from all agencies in Wave 1, Wave 2, and Wave 3.

Alyson Lunetta from the DOJ commented that there are two proposals to the data collection form that would allow us to better correlate the racial and identity profiling data with the disposition information and with the non-felony misdemeanor and felony type information. Ms. Lunetta also proposed separating the data completed in one year versus how many remain pending by having one data collection form for the current year and one data collection form that would indicate what happened with dispositions reported in the previous year but not completed.

Board Member Comments

- Co-Chair Robinson asked if the agencies are already collecting that data.
- Mr. Lunetta responded that the agencies are already collecting the data but at an aggregate level and this would be separating the information out into current year and previous year.

Ms. Lunetta commented that the DOJ also collecting AB 953 reports specific to local detention facilities, such as county jails, and asked the subcommittee if they would prefer this data be collected and tracked separately from the data on the civilian complaints. Ms. Lunetta also suggested that the data collected from local detention facilities also utilize two different forms to divide the information by disposition year more accurately and to mirror the approach of the civilian complaint data.

Board Member Comments

- Co-Chair Durali agreed with the approach of separating out the data collected from local detention facilities.
- Ms. Lunetta responded that this would amount to four separate forms including forms for data from the public for the current year and the previous year and forms for data from the local detention facilities from the current year and the previous year. All of this data is already collected, it would just be reported in a different format.
- Member Oden asked if the data from local detention facilities includes juvenile detention centers.
- Ms. Lunetta responded that that is not specifically defined.
- Mr. Walker commented that this data for inclusion in the report would include only the agencies that also have to report stop data.
- Co-Chair Robinson commented that, in his office, complaints taken from someone who is not in custody is lumped in with the civilian complaint data received from the public.
- Ms. Lunetta commented that the way the data is collected should have these elements separated.

5. Discussion of Report Contents On Civilian Complaint Procedures and Policies

Ms. Geiser provided a brief overview of the recommendations this subcommittee made in last year's report around increasing accessibility to complaint processes and ensuring transparency.

Ms. Geiser asked the subcommittee members for their feedback on including a best practice guide on civilian complaint policies and procedures in this year's report.

Board Member Comments

- Co-Chair Durali asked if it would be possible to solicit feedback from stakeholders while drafting the best practice recommendations.
- Ms. Geiser responded that any member of the public may submit comments to the DOJ on any draft that is discussed in a public meeting.
- Co-Chair Durali suggested including specific language access requirement, a specific community engagement plan, model timelines for investigation completion, standards for complaint form accessibility, standards for investigators, witness interviewing protocols, as well as recommendations around the use of civilian review boards and independent auditors.
- Co-Chair Robinson commented that agencies of different sizes will have different processes particularly in terms of an independent auditor or civilian review board. Co-Chair Robinson stated that the subcommittee should approach these recommendations with a small, medium, large agency scale to ensure that a small agency is not held to unrealistic standards.
- Co-Chair Durali commented that some agencies refer complaints to mediation especially for smaller infractions. Co-Chair Durali stated that there because there are many approaches to this process, it is particularly important to receive as much stakeholder feedback as possible.
- Member Oden commented that it is important not to imply that there is a one-size-fits all approach that will work in every agency and stated that the recommendations should be flexible enough to adapt to smaller departments with fewer resources.
- Co-Chair Durali agreed with the multi-tiered approach to the best practice recommendations.

6. Discussion of Proposed Model Complaint Form

Ms. Geiser commented that, should the subcommittee wish to recommend a model complaint form the essential elements of the form can be combined in the best practice recommendations or the subcommittee can make a physical model form.

Ms. Geiser commented that California Penal Code 148.6 requires that law enforcement agencies accepting allegations of misconduct against a police officer require the complainant to read and sign an advisory which Ms. Geiser then read aloud to the subcommittee. Ms. Geiser commented that there are portions of the advisory that are beneficial and necessary while others are problematic, one being that the requirement of a signature eliminates the possibility of filing a complaint anonymously. Ms. Geiser stated that if the subcommittee were to make a model complaint form, this advisory required by law must be included.

Board Member Comments

- Member Oden commented that the subcommittee could discuss whether a recommendation to make a legislative change would be appropriate, but as the law stands now, the model form would need to include the advisory.
- Co-Chair Durali commented that creating a model form would be easier for law enforcement agencies to use. Co-Chair Durali commented that immigrants may be less likely to want to sign something and come forward with a complaint.
- Co-Chair Durali suggested including a model form that includes the advisory this year as well as a recommendation to make a legislative fix and in future report updating the model form if the legislative change was made. Co-Chair Durali asked if this recommendation would need to be approved by the Board
- Ms. Geiser responded that all recommendations must be approved by a majority of the Board.

7. Public Comment

Katie Matthews from Disability Rights California commented that she approved of the inclusion of the model complaint form and commented that the subcommittee should keep in mind form access for those with disabilities such as making the form available in braille, having it in a larger font, or having a screen reader.

8. Approval of Next Steps

The subcommittee members approved the civilian complaints section of the proposed outline. DOJ staff will continue to analyze the 2017 citizen complaint data, to draft a best practice guide on civilian complaint policies and procedures, and draft a model civilian complaint form. The DOJ staff will work with the subcommittee co-chairs on editing the first drafts which will then be reviewed by the full subcommittee and subsequently the Board.

9. Adjourn

The meeting was adjourned at 11:20 a.m.